REMARKS

The foregoing amendments and the following remarks are responsive to the Office Action mailed December 4, 2003. Applicants respectfully request reconsideration of the present application.

Claims 1-30 are pending. Claims 1, 5, 6, and 30 are amended. Claims 18-29 are withdrawn. New claims 31-33 have been added Therefore, claims 1-17 and 30-32 are presented for examination.

Election/Restriction Requirement

Claims 1-30 are subject to restriction and/or election requirement. Examiner suggests that claims 18-29 (Group I) and 1-17 & 30 (Group II) are related as combination, sub-combination.

The Examiner suggests that a constructive election has already taken place, since the Applicant has received an action on the merits for the originally presented application. Applicants respectfully submit that the Examiner is incorrect. The present Office Action is the first action on the merits for this reissue case. Therefore, Applicants have not previously received an action on the merits, and therefore constructive election was improper.

Applicants elect Group I, claims 1-17 and 30. However, Applicants note that if these claims are not subsequently allowed, the rejoinder of the inventions, as set forth in MPEP 806.05(c) may be requested.

Objection as to Ownership

Applicants respectfully submit that the additional documentation submitted 11/18/2003 establishes the chain of ownership, and should be sufficient for 37 CFR

1.172(a). If any further documentation is required, Applicants respectfully request specification of what is required, as the chain of title has been demonstrated, including reel and frame numbers. Furthermore, the request was signed by the Chief Executive Officer of the Assignee, a party authorized to act on behalf of the assignee. Therefore, Applicants respectfully request withdrawal of this objection.

Objection as to Oath/Declaration

With respect to the objection to the oath and declaration, the claim amendments do identify the changes in the claims, including the entire text of the claim, and proper markings. Applicants are providing a table explaining the support in the Specification for the claim modifications, for the claims currently pending, claims 1-17 and 30. Applicants respectfully submit that this supporting material overcomes the objection under 37 CFR 1.173(c) raised by the Examiner.

Rejections under 35 USC 102(e)

The Examiner rejected claims 1-10, 12-15, 17, and 30 under 35 USC 102(e) as being anticipated by Robinson, U.S. Patent No. 5,918,014. Robinson discusses an automatic collaborative filtering for advertising. In particular, Robinson's system shows different adverts to different people, viewing the same page. The purpose of Robinson is to show different advertising blocks on the same web page. In contrast, the present invention is focused on determining which design of a web page is better. Robinson points out that "A Smart Ad Box is an area on a web page (usually rectangular) which is used to display Web advertising." (Column 4, lines 9-10). Thus, Robinson's invention is concerned with altering only the contents of an area on a web page. Furthermore, since Robinson is only concerned with advertising, he does not teach or suggest having multiple versions of a web page.

Claim 1, as amended, recites:

A process for measuring effectiveness of a web site having a test web page, the process comprising:

having a plurality versions of the test web page;

distributing web page access requests to the various versions of the test web page according to a predetermined distribution function; and

counting visits to one or more hyperlinks from each version of the test web page to determine a relative effectiveness of each version of the test web page.

(Claim 1, as amended, emphasis added). Robinson does not distribute web page access requests to various versions of a test web page. Rather, Robinson has a single web page, to which all access requests are directed. A small area of that web page, the Smart Ad Box, is the filled with one of a variety of advertisements. This is not equivalent to distributing web page access requests to the various versions of the test web page. Therefore, claim 1, and claims 2-5 and 31 which depend on it, are not anticipated by or obvious over Robinson.

Claim 6, as amended, recites:

A process for directing requests for a test web page having a predetermined universal resource location (URL) comprising:

having a plurality of versions of the test web pages;

distributing requests to a version of the test web page according to a predetermined distribution function wherein said requests are distributed by directing requests for the test web page to one of the versions of the test web page in accordance with a predetermined distribution function; and

measuring a relative effectiveness of each version of the test web site, based on a success percentage.

(Claim 6, as amended, emphasis added). Robinson does not direct requests for the test web page to one of the version of the test web page. Rather, Robinson has a single web page, to which all access requests are directed. Therefore, claim 6, and claims 7-8 and 32 which depend on it, are not anticipated by or obvious over Robinson.

Claim 9 recites:

A method of measuring the effectiveness of a web page having different versions, the method comprising:

displaying a version of the web page to a user, the version
selected according to a predetermined distribution function;
for each version of the web page, counting occurrences of a
desired behavior of the user to track the effectiveness of that version
of the web page.

(Claim 9, emphasis added). Robinson teach or suggest a web page having different

versions. Rather, Robinson has a single web page, to which all access requests are

directed. Therefore, claim 9, and claims 10-17 which depend on it, are not

anticipated by or obvious over Robinson.

Rejections under 35 USC 103

The Examiner rejected claim 11 under 35 USC 103(a) as being unpatentable

over Robinson in view of Jakob Nielsen et al.

Nielsen discusses designing and testing of user interfaces. Nielsen's

experiment was to observe users navigating various user interfaces, and observing

their reactions. Nielsen's article discusses a mock-up of a telephone interface.

Nielsen teaches away from the present invention, because he discusses using

specific testers, rather than using the public at large by directing actual users to

various versions of a web site. Furthermore, Nielsen does not teach or suggest

directing users to different versions of a single web site, as recited in claim 9. As

discussed above, Robinson also does not teach or suggest this feature. Therefore,

claim 11 is not obvious over Robinson in view of Nielsen.

The Examiner rejected claim 16 under 35 USC 103(a) as being unpatentable

over Robinson in view of U.S. Patent No. 5,960,409 to Wexler. Wexler discusses a

method of accounting for advertising revenue between web pages, using a third

party statistical tabulator. Wexler does not discuss having different versions of a

web page, as recited in claim 9. As noted above, Robinson also does not teach or

suggest this feature. Therefore, claim 16, which depends on claim 9, is not obvious over Robinson in view of Wexler.

Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully submit that all pending claims are in condition for allowance. Such allowance is respectfully requested.

If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully requested to contact Judith A. Szepesi at (408) 720-8300.

If there are any additional charges, please charge Deposit Account No. 02-2666.

Respectfully submitted,

Date: 6/4/04
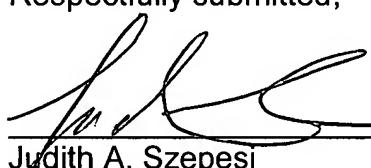
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